

MAURICE W. COBURN

IBLA 82-995

Decided August 29, 1983

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease application by second-drawn offeror and issuing lease number W-77601.

Reversed.

1. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents–Oil and Gas Leases: Applications: Drawings–Oil and Gas Leases: Applications: Legibility

Under provision of 43 CFR 3112.2-1(b) a simultaneous oil and gas lease application must reveal the name of the applicant, the name of the signatory, and their relationship. Where the agent's signature on the application is illegible and neither the application nor a qualifications statement filed with the agency for reference reveals the signing agent's relationship to the applicant, the regulation requires the application to be rejected.

APPEARANCES: Laura L. Payne, Esq., for appellant Maurice W. Coburn; Michael J. Tennant, Esq., for appellee Westates Group #5.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Maurice W. Coburn appeals from a decision by the Wyoming State Office, Bureau of Land Management (BLM), dated June 8, 1982, rejecting his simultaneous oil and gas lease application for parcel WY5153, drawn with second priority at the October 1981 drawing. Parcel WY5153 was leased by lease W-77601, dated May 24, 1982, issued to Robert J. Skubic and Thomas W. Wied, a partnership doing business as Westates Group #5, whose application was drawn with first priority for parcel WY5153. In his statement of reasons on appeal, appellant attacks the sufficiency of the Westates Group #5 application on four grounds involving claimed violations of Departmental regulations governing simultaneous oil and gas lease applications codified at 43 CFR

3102.2-7, 3112.2-1(c), 3112.2-1(d), and 3102.2-4(a)(1) (1981). ^{1/} For reasons explained in this opinion, the application by Westates Group #5 is found to be in violation of 43 CFR 3112.2-1(b) (1981) so as to require cancellation of lease W-77601.

The record on appeal contains the lease application filed by Westates Group #5. In the blank labeled "Agent's Signature (manually, in ink)" on the application form appears the legible handwritten name "T. S. Wied" and the date entry August 26, 1981. In the blank on the application labeled "Agent's Signature (manually, in ink)" appears an illegible scrawl, no part of which is decipherable so as to reveal a single character of the alphabet, and the date entry September 1, 1981. In the space provided for a listing of "Other Parties in Interest" appears the entry "R. Skubic 50%." And in the blank on the form provided for entry of serially numbered qualifications statements is written "W56800." The record establishes that the application was made for the September 1981 simultaneous filing period which began on September 1, 1981.

The qualifications file referred to by the lease application, W56800, contains information concerning Westates Group #5 and its corporate agent, Westates Resources, Inc., which establishes that Westates Group #5 is a limited partnership composed of Thomas S. Wied and Robert J. Skubic, each of whom holds a 50 percent interest in the partnership, which exists solely to enable participation by the partners in drawings for oil and gas leases in the state of Wyoming. The corporate agent, Westates Resources, Inc., is constituted the agent for Westates Group #5 to file simultaneous oil and gas lease applications for the partnership. Although the two partners, Wied and Skubic, live elsewhere, Westates Group #5 is located at Ontario, California, as is the corporate agent Westates Resources, Inc. The qualifications file contains no document showing signatures of persons authorized to sign oil and gas lease applications on behalf of the corporation.

In his statement of reasons in support of appeal, appellant analyzes the Westates' application in relation to regulations in effect in 1981 urging that the application by the partnership is bad for four reasons: First, appellant contends the disclosure that "R. Skubic" is interested in 50 percent of the lease offer is a statement that R. Skubic owns an interest over and above the interest of the two partners as shown by the qualifications file. Since that interest is undisclosed, appellant argues that the provisions of 43 CFR 3102.2-7 (1981) prohibiting such interests is violated by the application. Second, appellant argues that because the application shows it was signed by T. S. Wied prior to the September 1981 simultaneous filing period, the lease application should have been rejected as premature, and also should be rejected because the signature of the agent appearing on the application is illegible, and the relationship between the applicant and its agent cannot be ascertained, pursuant to 43 CFR 3112.2-1(b) and (c), citing Charles Y.

^{1/} The regulations at 43 CFR Part 3100 were substantially revised effective Feb. 26, 1982, and Aug. 22, 1983, in particulars not material to this decision. See 48 FR 33648 (July 22, 1983). (For the effect of the revision upon provisions of the regulations not here material, see Arthur H. Kuether, 65 IBLA 184, 186 n.4 (1982).)

Neff, 64 IBLA 234, 237 (1982), and Leonard Thompson, 62 IBLA 236 (1982). Third, it is contended that the Westates Group #5 application violates 43 CFR 3112.2-1(d) because it does not clearly contain the applicant's personal or business address as required by the regulation. Finally, appellant urges that the Westates Group #5 application is defective because the qualifications statement shown on the application form fails to contain a current disclosure of partnership qualifications timely filed within the requirements of 43 CFR 3102.2-1(c), citing Cluff Oil, Inc., 64 IBLA 156 (1982). Appellant's second contention concerning the conduct of the corporate agent in signing the application is dispositive of this appeal.

As appellant states, the signature by T. S. Wied, as it appears on the application, is a nullity on its face. It is dated on August 26, 1981, prior to the opening of the simultaneous filing period. It is therefore wholly to be disregarded. See Richard L. Kahn, 71 IBLA 120 (1983); Charles Y. Neff, *supra*. The signature of the agent, while it is dated within the September filing period, is indisputably unreadable. It could be the signature of anyone. Nothing in the qualifications file referred to by the application is an aid to determine who made the marks in the space provided for the agent's signature. The application from itself provides no clue to the identity of the signer of the agent's line. The applicable regulation, 43 CFR 3112.2-1(b) provides:

The application shall be holographically (manually) signed in ink by the applicant or holographically (manually) signed in ink by anyone authorized to sign on behalf of the applicant. Applications signed by anyone other than the applicant shall be rendered in a manner to reveal the name of the applicant, the name of the signatory and their relationship. (Example: Smith, agent for Jones; or Jones, principal, by Smith, agent.) Machine or rubber stamped signatures shall not be used.

This regulation was recently examined in the context of a similar case in Martin, Williams, & Judson, 74 IBLA 342 (1983). At 74 IBLA 343, the opinion in that case observes, in an analysis relevant to this appeal, that:

Although the Board has recognized it is not practical to fix an exacting standard of legibility (see Liberty Petroleum Corp., 68 IBLA 387, 388 (1982)), BLM must be able to identify who signs an oil and gas lease application and, if acting as agent, his or her relationship to the applicant. The signature on appellant's application does not provide this information. Thus, the application fails to satisfy the requirement that it be rendered in a manner to reveal the applicant, the name of the signatory, and their relationship and it must be rejected. Charles R. Tickel, 73 IBLA 360, 90 I.D. ____ (1983); Kenneth S. Bradke, 73 IBLA 216 (1983). It is not sufficient for the applicant to provide the required information on appeal. Strict compliance with the regulations governing simultaneous oil and gas lease applications is required to protect the rights of the second- and third-qualified applicants. Bonita C. Ferguson, 61 IBLA 178 (1982); Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), *aff'd sub nom. Ballard E. Spencer Trust, Inc. v. Morton*, 544 F.2d 1067 (10th Cir. 1976).

In its brief filed in opposition to appellant's statement of reasons on appeal, Westates Group #5 explains that the application for the partnership was signed by Alan Young, the president of the corporate agent. Westates Group #5 urges that the signature of President Young was known to BLM for the reason that:

Mr. Young's signature is no stranger to the Wyoming Office of the Bureau of Land Management. A copy of Westates Resources, Inc., letter of transmittal dated 15 September 1981 whereby the lease application cards for Westates Group #5 as well as other groups were sent to the BLM (Wyoming Office) reveals Mr. Young's signature as President of that corporation. (copy of 15 September 1981 Westates Resources, Inc., transmittal letter is attached hereto as Exhibit #4 and made a part hereof by reference thereto).

Examination of the entire record on appeal fails to reveal the signature of the corporate agent's president anywhere in the record concerning the application of Westates Group #5, either in the qualifications file or in documents submitted with the questioned application itself. It is not sufficient, in this circumstance, to offer an explanation on appeal to show that the application was in fact properly executed by an officer of the corporate agent. Cluff Oil, Inc., supra; Cheyenne Resources, Inc., 46 IBLA 277, 87 I.D. 110 (1980). In Kenneth S. Bradke, supra, a similar situation was considered, where an illegible signature appeared on an application and reference to the qualifications file failed to reveal the identity of the signer. In Bradke, at 73 IBLA 217, 218, the Board discussed numerous cases involving signatures of agents who could not be identified, and considered but rejected arguments that a strict application of 43 CFR 3112.2-1(b) (1981) ought not be made. The Board has consistently required strict adherence to regulations in simultaneous oil and gas lease application matters, and must do so in this case despite the fact that a priority right is caused to be forfeited by the application of the rule. See Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976), aff'g Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974). 2/

2/ The basis for this strict approach by the Department is explained in Mountain Fuel Supply Co., 13 IBLA 85 (1973):

"A commonplace colloquialism in our language is the expression 'a land-office business.' The source of the expression is the large volume of business conducted by land offices when new lands were opened to entry for homesteads. The expression is just as accurate today with respect to the large volume of oil and gas lease applications which must be processed by state offices of the Bureau of Land Management. In order to process this large volume, certain procedures must be followed which for their successful operation require complete accuracy on the part of the applicants. The state offices simply do not have the time, the money, or the authority to correct the errors of applicants. The effect, of course, is to place the economic cost of the errors on those seeking benefit from the public lands, and not on the taxpayer. We believe that this result is consistent with the interest."

Since the application of Westates Group #5 must be rejected and the lease issued to the partners canceled for the reasons stated, the remaining contentions on appeal are not discussed. Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed. The record on appeal is remanded to BLM with instructions to cancel the lease issued to Westates Group #5 and, if the application of the second drawee is in proper form, to issue a lease to Maurice W. Coburn.

Franklin D. Amess
Administrative Judge
Alternate Member

We concur:

Edward W. Stuebing
Administrative Judge

Gail M. Frazier
Administrative Judge

